

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-05-9358.M5

MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

Retrospective Medical Necessity Dispute

PART I: GENERAL INFORMATION

Type of Requestor: (X) HCP () IE () IC	Response Timely Filed? (X) Yes () No
Requestor's Name and Address South Coast Spine and Rehab, P. A. 620 Paredes Line Road Brownsville, TX 78521	MDR Tracking No.: M5-05-2412-01
	TWCC No.:
	Injured Employee's Name:
Respondent's Name and Address Brownsville ISD, Box 29	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

PART II: SUMMARY OF DISPUTE AND FINDINGS – MEDICAL NECESSITY ISSUES

Dates of Service		CPT Code(s) or Description	Did Requestor Prevail?
From	To		
12-6-04 and 12-21-04		CPT code 99213	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
12-6-04	12-21-04	CPT codes 97035, 97032, 97124, 97113	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
12-22-04	1-26-05	CPT codes 99213, 97035, 97032, 97124, 97113, 97110, 97750-FC	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

PART III: MEDICAL DISPUTE RESOLUTION REVIEW SUMMARY, METHODOLOGY, AND/OR EXPLANATION

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code and Commission Rule 133.308 (relating to Medical Dispute Resolution by Independent Review Organization), the Medical Review Division assigned an Independent Review Organization (IRO) to conduct a review of the medical necessity issues between the requestor and respondent.

CPT codes 99080 on 12-20-04 and 99080-73 on 1-27-05 were withdrawn by the requestor and will not be a part of this review.

The Division has reviewed the enclosed IRO decision and determined that the requestor did **not** prevail on the majority of the disputed medical necessity issues. The total amount due the requestor for the medical necessity services is \$1,574.40.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved.

On 6-29-05 the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

Regarding CPT code 99080-73 on 12-21-04 and 12-28-04: The carrier denied these services with a "V" for unnecessary medical treatment based on a peer review; however, the TWCC-73 is a required report per Rule 129.5 and is not subject to an IRO review. A referral will be made to Compliance and Practices for this violation. The Medical Review Division has jurisdiction in this matter. **Recommend reimbursement of \$30.00 (\$15.00 X 2 DOS).**

PART IV: COMMISSION DECISION

Based upon the review of the disputed healthcare services, the Medical Review Division has determined that the requestor is not entitled to a refund of the paid IRO fee. The Division hereby **ORDERS** the insurance carrier to remit \$1,604.40, plus all accrued interest due at the time of payment, to the Requestor within 20-days of receipt of this Order.

Findings and Decision by:

_____	Donna Auby	8-3-05
Authorized Signature	Typed Name	Date of Order

PART V: INSURANCE CARRIER DELIVERY CERTIFICATION

I hereby verify that I received a copy of this Decision in the Austin Representative's box.

Signature of Insurance Carrier: _____ Date: _____

PART VI: YOUR RIGHT TO REQUEST A HEARING

If you are unhappy with all or part of this decision, you have the right to appeal the decision. Those who wish to appeal decisions that were issued during the month of August 2005, should be aware of changes to the appeals process which take effect September 1, 2005.

House Bill 7, recently enacted by the 79th Texas Legislature, provides that an appeal of a medical dispute resolution order that is not pending for a hearing at the State Office of Administrative Hearings (SOAH) on or before August 31, 2005 is not entitled to a SOAH hearing. This means that the usual 20-day window to appeal to SOAH, found in Commission Rule 148.3, will be shortened for some parties during this transition phase. If you wish to seek an appeal of this medical dispute resolution order to SOAH, you are encouraged to have your request for a hearing to the Commission as early as possible to allow sufficient time for the Commission to submit your request to SOAH for docketing. A request for a SOAH hearing should be sent to: Chief Clerk of Proceedings/Appeals Clerk, P.O. Box 17787, Austin, Texas 78744 or faxed to 512-804-4011. A copy of this Decision should be attached to the request.

Beginning September 1, 2005, appeals of medical dispute resolution orders are procedurally made directly to a district court in Travis County [see Texas Labor Code, Sec. 413.031(k), as amended and effective Sept. 1, 2005). An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable.

Si prefiere hablar con una persona in español acerca de ésta correspondencia, favor de llamar a 512-804-4812.

July 29, 2005

Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

Re: Medical Dispute Resolution
MDR #: M5-05-2412-01
TWCC#: _____
Injured Employee: _____
DOI: _____
SS#: _____
IRO Certificate No.: IRO 5055

Dear ____:

IRI has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, IRI reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of Independent Review, Inc. and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is licensed in chiropractic, and is currently on the TWCC Approved Doctor List.

Sincerely,

Gilbert Prud'homme
General Counsel
GP:thh

REVIEWER'S REPORT
M5-05-2412-01

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor:

Correspondence
Office notes 11/04/04 – 01/19/05
Physical therapy notes 12/06/04 – 01/19/05
FCE 11/08/04 – 01/26/05
Radiology reports 11/04/04 – 12/21/04

Information provided by Respondent:

Correspondence
Designated doctor reviews

Clinical History:

The claimant underwent physical medicine treatments, diagnostic imaging, IME and FCEs after sustaining injury at work on ____ when she slipped on a piece of lettuce and fell.

Disputed Services:

Ultrasound, electrical stimulation, massage therapy, aquatic therapy, office visits, therapeutic exercises and FCE during the period of 12/06/04 thru 01/27/05.

Decision:

The reviewer partially agrees with the determination of the insurance carrier as follows:

Medically Necessary:

On 12/06/04 & 12/21/04 – Office visits (99213).

From 12/06/04 thru 12/21/04 - Ultrasound (97035), electrical stimulation (97032), massage (97124) & aquatic therapy (97113).

Not Medically Necessary:

All other treatment and services in dispute during the period in question as stated above.

Rationale:

It is the position of the Texas Chiropractic Association ¹ that it is beneficial to proceed to the rehabilitation phase (if warranted) as rapidly as possible, and to minimize dependency upon passive forms of treatment/care since studies have shown a clear relationship between prolonged restricted activity and the risk of failure in returning to pre-injury status. The TCA Guidelines also state that repeated use of acute care measures alone generally fosters chronicity, physician dependence and over-utilization and the repeated use of passive treatment/care tends to promote physician dependence and chronicity. The ACOEM Guidelines ² state that there is no high-grade scientific evidence to support the effectiveness of passive modalities such as traction, heat/cold applications, massage, diathermy, ultrasound, or TENS units for cervical spine conditions.

Even though passive treatment was continued far beyond what guidelines recommend, the medical records document that treatment from 12/06/04 through 12/21/04 fulfilled the statutory requirements ³ for medical necessity since the patient obtained relief (pain ratings decreased) and promotion of recovery was accomplished (shoulder and cervical ranges of motion improved).

On the other hand, treatment after 12/21/04 did not meet statutory requirements for medical necessity since the patient's cervical and shoulder ranges of motion actually decreased when examined on 01/27/05 and there was no significant reduction in her pain. Moreover, there was no documentation that the treatment had enhanced the claimant's ability to return to employment.

And finally, there is no support under CPT ⁴ for the medical necessity for the high level of E/M service (99213) on most every visit during an established treatment

¹ Quality Assurance Guidelines, Texas Chiropractic Association.

² ACOEM *Occupational Medicine Practice Guidelines: Evaluation and Management of Common Health Problems and Functional Recovery in Workers*, 2nd Edition, p. 299.

³ Texas Labor Code 408.021

⁴ CPT 2004: *Physician's Current Procedural Terminology, Fourth Edition, Revised*. (American Medical Association, Chicago, IL 1999),